



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Thursday, the Twenty Third day of August, Two Thousand and Eighteen

PRESENT

The Hon'ble Mr. Justice T. RAJA

and

The Hon'ble Mr. Justice KRISHNAN RAMASAMY

WMP(MD) No.6009 of 2018

IN

WP(MD) No.5834 of 2017

S.SURESHKUMAR

... PETITIONER

Vs

1 THE CHIEF MANAGER/AUTHORIZED OFFICER,
STATE BANK OF INDIA,
SIVAGANGAI BRANCH, JUSTICE RAJASEKARAN ROAD, SIVAGANGAI,
SIVAGANGAI DISTRICT.

2 THE REGIONAL MANAGER,
STATE BANK OF INDIA, REGIONAL OFFICE NO.II,
(SIVAGANGAI BRANCH), TRICHY.

3 THE GENERAL MANAGER,
STATE BANK OF INDIA-HEAD OFFICE,
NUNGAMBAKKAM, CHENNAI.

4 THE GENERAL MANAGER,
SBI LIFE INSURANCE COMPANY LTD., (IRDA),
CENTRAL PROCESSING CENTRE, KAPAS BHAVAN,
PLOT 3A, SECTOR-10, CBD BELAPUR,
NAVI MUMBAI-400 614.

... RESPONDENTS

PRAYER IN WMP(MD) 6009/2018:

This Petition is filed under Article 226 of the Constitution of India, praying to restore the main Writ Petition in WP(MD) No.5834 of 2017 into the file of this Honble Court which was dismissed for default on 23.02.2017 and pass.

PRAYER IN WP(MD).5834/2017:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari calling from the records of the 1st respondent relating to his impugned order in Misc/90, dated 27.02.2017 and quash the same.



documents placed on record filed in support and upon hearing the arguments of Mr.T.Sakthi Kumaran, for Mr.A.Thirumurthy, Advocate for the Petitioner, and of Mr.Pala Ramasamy, Advocate for R1 to R3, and Mr.P.Arun Jayatram, Advocate for R4, and this Court made the following order:

This W.M.P.(MD)No.6009 of 2018 has been filed to restore the main writ petition in W.P.(MD) No.5834 of 2017.

2.The petitioner came up with the Writ Petition (MD) No.5834 of 2017 challenging the order dated 27.02.2017 informing the petitioner that he has paid insurance premium of Rs.1,14,470/- (Rupees One Lakh Fourteen Thousand Four Hundred and Seventy only) and has not paid any premium for his sister to cover under the policy. The said writ petition was dismissed for non-prosecution on 27.07.2017 by this Court. Thereafter, a restoration petition was also filed by the petitioner in W.M.P.(MD) No.12718 of 2017 in W.P.(MD) No.5834 of 2017. The said restoration petition was allowed by order dated 31.08.2017 and the main writ petition was restored back to the file.

3.Again when the case was listed for hearing on 23.02.2018, no one appeared for the petitioner and as a result, once again the writ petition was dismissed for non-prosecution on 23.02.2018. Once again, for the second time, the petitioner has come up before this Court with the present restoration petition.

4.The learned counsel appearing for the petitioner submitted that although the writ petition dismissed on earlier occasion, was restored, there is no impediment for this Court to restore the Writ Petition second time, since no party should suffer on account of any error or mistake committed by the learned counsel for the petitioner. It is further submitted that though the name of the earlier counsel has been printed in the cause list, she did not receive any message from "STAR MOBILE SMS ALERT SERVICE" due to network service issues. Moreover, his counsel was taking care of her twin children and also her age-old mother-in-law and father-in-law, in view thereof, she was unable to check up the cause list on website on 23.02.2018, which resulted in non-appearance for hearing. However, after coming to know about the dismissal of the case on 23.02.2018, she applied for order copy on the very same day. After receiving the order copy on 09.03.2018, she has been advised to file the present restoration petition.

5.We have seen the records but we are unable to find any explanation to entertain the second restoration petition. Once the petitioner was given indulgence for restoring the writ petition, he should have been more careful. As he has allowed the Writ Petition to be dismissed on second occasion, we are unable to find any justification to show one more indulgence to the petitioner for second restoration for the simple reason that the previous counsel was blessed with twin children and was busy with rearing of the same. It is pertinent to mention here that every counsel is having children, hence, the petitioner cannot say that in view of the engagement of the earlier counsel in taking care of her twin



children, she could not check up the cause list and make her appearance for the hearing. Similarly, she cannot put the blame on the mobile network service. Therefore, the restoration petition fails and accordingly, the same is dismissed.

Sd/
Assistant Registrar (CS-III)

/True copy/

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Sub Assistant Registrar (CS-II)

+1cc to Mr.A.Thirumurthy, Advocate, SR.No.80061

ORDER DATE: 23.08.2018

ORDER
WMP(MD) No.6009 of 2018
IN
WP(MD) No.5834 of 2017
Giving directions etc., as
stated within.

KK/SV/SAR-2/04.09.2018/3P-2C